

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.MC.No. 2723 of 2007()

CC.982/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, HOSDRUG
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PETITIONER: ACCUSED:

JAGJIVAN, AGED 30 YEARS,
S/O.K.KRISHNAN, NEELAMBAM HOUSE, PEKADAM,
THRIKKARIPUR P.O., KASARGOD DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS: COMPLAINANT/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY STATION HOUSE OFFICER,
CHANDERA POLICE STATION THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. SOUMYA, AGED 23 YEARS,
D/O. NARAYANAN, RESIDING AT PULIYANNOOR,
POTHAVOOR P.O., CHEEMENI, HOSDURG TALUK.

BY ADV. SRI.M.THAMBAN
PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2723 of 2007

Dated this the 24th day of August 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 498A I.P.C. Proceedings were initiated on the basis of a private complaint filed by the second respondent herein, the wife of the petitioner. That complaint was referred to the police under Section 156(3) Cr.P.C. The crime was accordingly registered. It was thereafter that the investigation was conducted. Final report was filed and cognizance was taken by the learned Magistrate. The petitioner faces allegations under Section 498A I.P.C.

2. The learned counsel for the petitioner submits that the petitioner has now settled his disputes with the second respondent/complainant. The marital tie has now been dissolved. Annexure III is the order passed by the Family Court, Kasaragod under Section 13B of the Hindu Marriage Act. Annexure 4 is a copy of the agreement entered into between the petitioner and the second respondent. The learned counsel

asserts that the disputes have been settled and that the second respondent has compounded the offence under Section 498A I.P.C allegedly committed by the petitioner against her.

3. I am satisfied from the averments in this petition, from Annexure 3 and 4 documents produced and also from the assertions made by the learned counsel for the petitioner and the second respondent at the Bar that the parties have settled their disputes amicably and that the second respondent has compounded the offence under Section 498A I.P.C allegedly committed by the petitioner against her. If legally permissible, I am satisfied that the settlement and composition can be accepted.

4. But the offence under Section 498A I.P.C is not compoundable under Section 320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude

of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] are liable to be invoked to bring to premature termination C.C.No.982/2006 pending before the learned Judicial First Class Magistrate Court-I, Hosdurg against the petitioner.

5. In the result, this petition is allowed. C.C.No.982/2006 pending before the learned Judicial First Class Magistrate Court-I, Hosdurg is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007